

**REMARKS**

By this amendment, claims 1-3, 7, 9, and 55 have been amended, claims 8, 16 and 17 remain as previously presented. No new claims have been added and no claims have been deleted. Hence, claims 1-3, 7-9, 16-17 and 55 remain currently pending.

1. **Response to Claim Rejections under 35 U.S.C. § 112**

Claims 1-3, 7-9, 16-17, and 55 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification. In an Objection to the Specification section of the Office Action, the Examiner has cited various claimed elements that are purportedly new information that was not included or implied in the original version of the disclosure. Although applicant contends that the added information does not constitute new matter, in the interest of expediting prosecution of the instant application, applicant has amended the claims to delete the objectionable portions of the claims. It is therefore, respectfully submitted that the instant rejection under 35 U.S.C. § 112 has been overcome.

2. **Response to Claim Rejections under 35 U.S.C. § 103**

Claims 1-3, 7, 16, and 55 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kessler et al., U.S. Patent Number 5,324,077 (hereinafter “Kessler”) in view of Bitran, et al, Provider Incentives and Productive Efficiency in Government Health Services document, September , 1992. URL: <http://www.phrplus.org/Pubs/hfsmar1.pdf> (hereinafter “Bitran”). Claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kessler and Bitran, and further in view of Spiro, U.S. Patent Number 5,819,228 (hereinafter “Spiro”). Claim 17 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Spiro and Bitran, and further in view of Seare, U.S. Patent Number 5,557,514 (hereinafter “Seare”).

Claim 1 has been amended to recite:

1. A computer-implemented method, executed in a first computer operated by an incentive administrator that is coupled to a second computer operated by a payer and a third computer operated by a healthcare provider, of providing a monetary incentive

payable to the healthcare provider upon completion of a course of treatment for a patient with a condition during an episode of care, the method comprising the steps of:

- creating an initial baseline value related to treatment of the condition;
- receiving over the computer network from the payer a diagnosis of the patient performed by the healthcare provider and provided by the healthcare provider to the payer, along with an associated cost quantified by the initial baseline value;
- creating an episode of care based upon the diagnosis of the healthcare provider and a decided course of treatment for the condition;
- verifying that the episode of care is not an outlier case representing an extreme condition that costs significantly more than the cost associated with the initial baseline value;
- verifying that the episode of care is not subject to gaming effects;
- summing a plurality of claims processed during the episode of care of the patient for the condition to obtain a total treatment cost;
- adjusting the initial baseline value by factoring in any effects due to comorbidity to derive an adjusted baseline value;
- determining if the total treatment cost is less than the adjusted baseline value, thus resulting in a cost savings for the decided course of treatment;
- causing a portion of the cost savings to be sent to the healthcare provider in the form of a targeted monetary incentive that is individually calculated based on the episode of care, and correlated to the total treatment cost; and
- determining a portion of the cost savings to be retained by the incentive administrator.

Claim 1 recites a method in which a monetary incentive is calculated by an incentive administrator to be paid by a payer to a healthcare provider who performs a diagnosis and decides a course of treatment for a patient with a condition. Claim 1 further recites a method in which a monetary incentive is paid to the healthcare provider if the total treatment cost is less than an adjusted baseline value that is adjusted for comorbidity effects, and wherein the episode of care is verified to not be an outlier and to be free of gaming effects. Furthermore, amended claim 1 recites that the monetary incentive is a targeted monetary incentive that is individually calculated based on the episode of care.

As stated by the Examiner, Kessler does not explicitly disclose “determining if the total treatment cost is less than the baseline value, thus resulting in a cost savings.” (Office Action, 04/06/2005, p. 5). However, the Examiner cites Bitran as providing this element. The Bitran paper studies the causes and inefficiencies in government-run healthcare systems in third world countries, and discusses the withholding of a percentage of fees from a

physician until year-end, and the payment of these fees to those physicians who meet certain performance goals. Applicants emphasize that the system described in Bitran only mentions cost-containment goals, but does not teach or suggest the use of targeted incentives to healthcare providers through payments that are individually calculated based on specific episodes of care, as claimed in the present application.

The Examiner noted that the element of “payments that are individually calculated based on specific episodes of care” was not a claimed limitation. Claim 1 has been duly amended to positively recite the element of “causing a portion of the cost savings to be sent to the healthcare provider in the form of a targeted monetary incentive that is individually calculated based on the episode of care, and correlated to the total treatment cost.” Again, Bitran only describes splitting an amount of money among parties in a healthcare system. Bitran does not provide any teaching regarding utilization of healthcare services and the use of targeted incentives, as claimed in amended claim 1. Any concept of “incentivization” in Bitran is based on a general fee-withholding mechanism, which is substantially different to the claimed system of targeted incentives paid for an episode of care and correlated to the total treatment cost. Bitran further does not teach or suggest a system in which an incentive administrator retains a portion of the cost savings, as claimed in claim 1. Moreover, the cited combination does not disclose a system in which episodes of care are free from outlier and gaming effects, and calculate an adjusted baseline value based on comorbidity effects, as recited in claim 1.

Therefore, it is respectfully submitted that in light of the amendments made to claim 1 and the remarks provided herein, the instant claim rejection under 35 U.S.C. § 103(a) has been overcome, thus placing claim 1 in condition for allowance. Claims 2-3, 7-9, and 16-17 depend from claim 1, and therefore, for the same reasons provided with respect to claim 1, it is respectfully submitted that these claims are allowable over the cited combination.

Claim 55 is an independent apparatus claim that has been amended to recite elements similar to those of amended claim 1. Therefore, for the same reasons provided with respect to claim 1, it is respectfully submitted that claim 55 is allowable over the cited combination.

Applicants respectfully request that the above-described amendments be made part of the official record in the present application, and submit that support for the claim

amendments is present in the specification, claims, and drawings as originally filed, and that no new matter has been added.

3. Petition for Extension of Time


A Petition for Extension of Time Under 37 CFR §1.136(a) is enclosed herewith for a three-month extension of time.

If there are any shortages, the Examiner is authorized to charge our Deposit Account Number 503616.

Respectfully submitted,

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